



Serial No. 10/797,301 (DE258-68395/DP-308342)  
Petition to Suspend Rules Pursuant to 37 C.F.R. § 1.183

PATENT

1/21/09 DAC

## IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant(s): Robert J. Svoboda et al.	)	Examiner: S. Ahmed
	)	
Serial No.: 10/797,301	)	Art Unit: 1792
	)	
Filed: March 9, 2004	)	Confirmation No. 4465
	)	
For: CERAMIC ASSEMBLY WITH A	)	
STABILIZER LAYER	)	

### PETITION TO SUSPEND THE RULES PURSUANT TO 37 C.F.R. § 1.183

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby submit this Petition to Suspend the Rules Pursuant to 37 C.F.R. § 1.183 ("Petition") to request waiver of the requirement that Robert J. Svoboda sign a declaration in order to establish prior invention as required in 37 C.F.R. § 1.131. See also MPEP 715.04.

In the Amendment and Response to Office Action ("Response") being filed concurrently herewith, it has been submitted that Robert J. Svoboda ("Mr. Svoboda") and Joseph M. Keller ("Mr. Keller") both conceived of the inventions set forth in claims 1 and 26, and Mr. Svoboda actually reduced the inventions set forth in claims 1 and 26 to practice on or before August 1, 2002, which is prior to the effective date (April 28, 2003) of U.S. Patent Publication No. 2008/0038611 to Sprenkle et al. ("the Sprenkle reference"). Based on the prior invention of

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claims 1 and 26 by Mr. Svoboda and Mr. Keller, Applicants submit that the Sprenkle reference is not prior art.

In order to establish that the Sprenkle reference is not prior art based on prior invention, all of the inventors of the subject matter of the rejected claim must submit a declaration pursuant to 37 C.F.R. § 1.131(a). *See also* MPEP 715.04. Therefore, in regard to claims 1 and 26 of the above-referenced patent application, Mr. Svoboda and Mr. Keller are required by 37 C.F.R. § 1.131(a) to submit a declaration to establish prior invention. *See* MPEP 715.04(I)(B). Mr. Keller has executed a declaration in support of the prior invention of the inventions set forth in claims 1 and 26, which is included in the Appendix of the Response. However, Robert J. Svoboda is unavailable to sign a declaration to establish prior invention of claims 1 and 26. *See* MPEP 715.04; *see also* 37 C.F.R. § 1.47; MPEP 409.03, 409.03(d).

Applicants are hereby submitting this Petition to waive the requirement that Mr. Svoboda sign a declaration under 37 C.F.R. § 1.131 in support of the prior invention of claims 1 and 26. In support of the Petition, it is submitted that a diligent effort has been made to contact Mr. Svoboda and present him with a declaration similar to the declaration that Mr. Keller executed, along with the accompanying exhibits referred to in the declaration. *See* MPEP 409.03.

On January 7, 2009, Mr. Svoboda's version of the declaration and exhibits was e-mailed to Mr. Svoboda's home e-mail address in an effort to present these documents to Mr. Svoboda for his review and consideration. *See Exhibit A*. The e-mail requested that Mr. Svoboda contact Ronald J. Kisicki, Esq. (Reg. No.

38,205) to discuss the declaration and exhibits that were provided to Mr. Svoboda. *See id.* Subsequent to Mr. Kisicki's e-mail to Mr. Svoboda, the undersigned mailed a copy of the declaration and accompanying exhibits to Mr. Svoboda's last known address (6128 King Arthur Drive, Swartz Creek, Michigan 48473) by U.S. Certified Mail using the U.S. Postal Service on January 8, 2009. *See Exhibit B.* Enclosed herewith is a true and original copy of a U.S. Postal Certified Mail Receipt indicating that the above-referenced letter was mailed on January 8, 2009. *See Exhibit C.* On January 15, 2009, the undersigned received a Domestic Return Receipt from the U.S. Postal Service confirming that the declaration and exhibits were received at Mr. Svoboda's last known address. *See Exhibit D.*

Mr. Svoboda has failed to respond to the e-mail that Mr. Kisicki sent him on January 7, 2009 and the letter that the undersigned sent to his last known address on January 9, 2009.

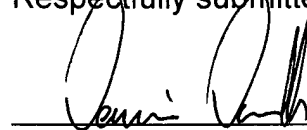
Given Mr. Svoboda's failure to respond to the e-mail and written communications referred to above, Applicants submit that Mr. Svoboda is unavailable to sign a declaration that is required under 37 C.F.R. § 1.131 to establish prior inventorship of the inventions set forth in claims 1 and 26 of the above-referenced patent application.

In conclusion, Applicants hereby request that this Petition for waiver of the rule requiring that Mr. Svoboda sign a declaration under 37 C.F.R. § 1.131 in support of the prior invention of claims 1 and 26 relative to the Sprenkle reference be granted. *See* 37 C.F.R. § 1.183; MPEP 715.04(I).

The Commissioner is hereby authorized to charge the \$130.00 fee  
required under 37 C.F.R. § 1.17(h) for the Petition to Suspend the Rules  
Pursuant to 37 C.F.R. § 1.183 and any other fee that may have been overlooked  
to Deposit Account No. 50-4635.

Dated: 1/16/2009

Respectfully submitted,



Dennis B. Danella, Esq.  
Reg. No. 46,653

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